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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,117	08/22/2006	Anders Sundgren	4448-44	1250
23117 7590 02/26/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
MC'CARRY JR, ROBERT J				
ART UNIT		PAPER NUMBER		
3617				
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02/26/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,117

Applicant(s)

SUNDGREN, ANDERS

Examiner

ROBERT J. MCCARRY JR

Art Unit

3617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the term "Guide rail of compound type made like a railway rail or similar." The terms "made like a railway rail or similar" do not distinctly recite the features of the rail or the shape of the rail. It is unclear as to what shape or form the device should take.

Regarding claim 1, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 1, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 14, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 15, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 19, the phrase "such as" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 27, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelletier (US 6,536,104).

Pelletier discloses a compound guide rail having a base rail and an outer rail. The base rail is comprised of a lower foot section and an upper head section. The two portions are connected together by a thin web section extending upward from the foot to the head of the rail. A metal outer rail is attached to the head of the rail. The outer rail is generally C or U shaped cross section and is inverted so that the concave portion opening of the outer rail faces the head of the base rail. The outer rail mates flush with

the base rail with a generally flat surface at the top of the base rail and two arms downwardly extending adjacent to the sides of the base rail and tapering inward towards the web of the base rail. The outer rail is fitted to the base rail by pressure on the downwardly extending sides and the two are also welded together.

Pelletier discloses the rail assembly as described above. However, Pelletier does not distinctly show the two rails to be glued together. It would have been obvious to one of ordinary skill in the art to have understood that conductive glue can be used as a functional equivalent to welding in regards to adhering and attaching two like parts together. This functional equivalent can be substituted with the expected result that a conductive glue can be applied by any worker and not one specifically skilled at welding therefore allowing for a faster more efficient manufacturing of the assembly.

Regarding claims 46 and 47. Pelletier discloses the structure as described above. However, Pelletier does not specifically state the thickness or yield limit of the outer rail layer. It would have been an obvious design choice to one of ordinary skill in the art to have made the thickness of the outer rail between 2 and 10 mm with the expected result of allowing for larger rails to more readily support larger vehicles in various environments. It also would have been an obvious design choice to one of ordinary skill in the art to have made the yield limit in the range of 900-1300 Mpa with the expected result of providing increased support to various sized vehicles in various environments and temperature changes.

Regarding claims 52-63 drawn to the method of manufacturing a guide rail. It would have been obvious to one of ordinary skill in the art to come to the expected

result that since Pelletier discloses the same apparatus assembly, the same method would be used to construct the apparatus.

Regarding claims 43-45 and 48-50. These claims recite a method limitation in an apparatus claims. These method limitations have not been given patentable weight. See MPEP § 2113.

Response to Arguments

Applicant's arguments filed December 16, 2008 have been fully considered but they are not persuasive. Applicant argues that the prior art of Pelletier does not specifically show the outer layer of the rail to have a yield point greater than the yield point of the base rail. The Examiner has interpreted that the base rail will yield sooner than the outer rail layer based on the construction of the base rail. The base rail is shown to have grooves, or slots 32 between the head and the web of the rail. These spaces will allow for a flexure of the rail as weight is applied to the rail. Therefore the head of the rail will flex or yield before the outer rail layer, being of solid construction.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McQuaid et al (US 5,511,361), Hung (US 4,889,281), Hartland (US 5,047,595) and Brinson et al (US 6,557,775) all disclose various types of compound rails.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. MCCARRY JR whose telephone number is (571)272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617

/R. J. McCarry Jr./
Examiner, Art Unit 3617

RJM
February 20, 2009